IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 20728 of 2004

Between:

G. Jenardhan Rao, S/o. Late Koteswar Rao,
R/o. Boppudi Village, Chilakaluripeta Mandal, Guntur District.

..... PETITIONER

AND

1. The Assistant Commissioner, Hindu Religious and Charitable Endowments Department, Guntur.
2. The Deputy Commissioner of Hindu Charitable Endowments Department, Guntur.
3. Sri Prashnanjaneya Temple, Boppudi Village, Chilakaluripeta Mandal, Guntur District.
4. Byka Anji Reddy S/o. Venkata Reddy, Chilkaluripet, Guntur District.
5. Narne Hanumantha Rao S/o.Venkata Subbaiah
Chilkaluripeta, Guntur District.

(R.4 & 5 are impeaded as per court order dt.16-03-05 in WPMP.28664/2004.)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of writ of mandamus declaring the action of the respondents 1 and 2 in not appointing the petitioner as founder trusty and further ignoring him in constituting the committee of the 3rd respondent temple is illegal arbitrary and consequently direct the respondents 1 and 2 to appoint the petitioner and founder trusty and chairman of the committee for the 3rd respondent temple.

Counsel for the Petitioner:MR.V.RAGHU

Counsel for the Respondents No.1 &2 : GP FOR ENDOWMENTS

Counsel for Respondent No.3: Smt. K.Indrani.

Counsel for the Respondents 4 & 5: Mr. Ravi Shankar Jandhyala

The Court made the following :

O R D E R:

The petitioner filed the representation before the Deputy Commissioner of Hindu Charitable Endowments Department, Guntur, on 15.3.2002, stating that the father of the petitioner, Koteswara Rao gave Ac.0.50 cents of land in D.No.469 of Boppudi village and by the side of the G.T. Road, in the year 1984, for the construction of Anjaneya Swamy Temple in the site and also he made yeoman service for the construction of the said temple and its development up-to the end of his life. Subsequently, the petitioner gave 0.07 cents of site in D.No.469 for nominal price of Rs.6,000/- to R&B Department for the purpose of developing the road on National High Way to the trunk road in the year 1984.

2. The Endowments Department took-over the temple in August 1997 and since then the petitioner has been serving in the temple. On 13.7.1998, the Executive Officer was appointed and took charge of the temple and till then the petitioner has been requesting the Department to appoint him as founder trustee and Chairman of the Trust Board being family member of the founder of the said temple. Pursuant to the said representation, the Deputy Commissioner of Endowments Department, Guntur, vide his proceedings in Rc.No.A.1/8597/2002-1 Adm., dated 1.8.2002, requested the petitioner to produce the documents in support of his claim, such as gift of land, and construction of temple exclusively by his father etc., for taking further action and to recognize him as founder trustee. Without considering his request and without disposing the representation of the petitioner, the Commissioner issued a notification for the appointment of trustees to the temple of 'Sri Prashnanjaneya Temple', Boppudi Village, Chilakaluripeta Mandal, Guntur District in R.C.No.9324/2004, dt.23.10.2004.

3 . This Court by order dated 11.11.2004, in W.P.M.P.No.27161 of 2004, directed that the respondents 1 and 2 may proceed with the impugned notice dated 23.10.2004, but the constitution of the Trust Board shall not be finalized. Though the representation of the petitioner is not yet been disposed of, the petitioner filed the petition under Section 45 r/w 87 of the A.P. Charitable Religious Institutions and Endowments Act 30/87, before the 2nd respondent to enquire into the matter for the purpose of declaring him as member of the founder family of the said temple and to act as founder trustee of the temple. It is stated that the said O.A. is pending before the 2nd respondent.

4. Mr. Ravi Shankar Jandhyala, appearing for the respondents 4 and 5, submits that the claims of the petitioner are yet to be decided, but under these circumstances, the constitution of the Trust Board is very much essential, as 'Jatara' is going to be performed in four weeks, for which, without the trust board the interest of the public will be affected. Admittedly, the respondents 4 and 5 are only the aspirants to become the Trust Board Members and they cannot have any objection for the disposal of O.A. pending on the file of the 2nd respondent for the purpose of deciding the claims of the petitioner as to whether he should be declared as founder of the trustee.

5. In the existing circumstances of the case, I am of the opinion that until the O.A. is disposed of, which is pending on the file of the 2nd respondent to declare the petitioner as founder trustee, it may not be just and proper to appoint the trustees for the said temple and the constitution of the Board of Trustees without considering the claims of the petitioner may affect the interest of the petitioner if ultimately he is recognized as founder trustee of the said temple.

6. Having regard to the facts and circumstances of the case, the said interim order granted by this Court on 11.11.2004 shall continue pending disposal of the O.A. before the Deputy Commissioner of Hindu Charitable Endowments

Department, Guntur and the second respondent shall dispose of the said O.A. filed by the petitioner within a period of three weeks from the date of receipt of the copy of this order and immediately after the disposal of the said O.A., it is open for him to constitute a Trust Board and finalise the issue of the said temple.

7. The Writ Petition is accordingly disposed of. No order as to costs.

V.ESWARAIAH, J

18th March 2005.

Note:

Issue C.C. by 21.3.2005(Monday).

B/o

BCS

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Assistant Commissioner, Hindu Religious and Charitable Endowments Department, Guntur.
2. The Deputy Commissioner of Hindu Charitable Endowments Department, Guntur.
3. Sri Prashnanjaneya Temple, Boppudi Village, Chilakaluripeta Mandal, Guntur District.
4. Two C.Cs. to G.P.for Endowments, A.P. High Court Buildings, Hyderabad. (OUT)
5. 2 CD copies.